

CLARIFICATIONS, ERRATA AND UPDATES TO THE
AUGUST 30, 2001, DRAFT REPORT ON
U.S. EPA REVIEW OF OHIO ENVIRONMENTAL PROGRAMS

November 8, 2001

This purpose of this clarification, errata and update sheet is to correct clear factual errors, make several clarifications, and provide two material updates to the Draft Report on U.S. EPA Review of Ohio Environmental Programs, dated August 30, 2001, that might elicit unnecessary comment. The Draft Report on U.S. EPA Review of Ohio Environmental Programs was posted on the World Wide Web on September 4, 2001, at www.epa.gov/region5/ohioreview/draftreport.htm. All page references below are to that document.

I. CLARIFICATIONS AND ERRATA

U.S. EPA's preliminary findings noted that OEPA had projected 399 employees would be needed to operate air pollution programs in Ohio when its Clean Air Act Title V program was in place (see pages CAA 3, CAA 5, and CAA 20). U.S. EPA found that only 222 OEPA air program employees were on staff as of December 4, 2000. Ohio EPA has pointed out that the 399 figure included **local air agency employees** as well as OEPA staff. Presently, the total number of OEPA air program and local air agency employees is just under 399. We will make all appropriate changes in the final report to reflect the actual numbers of employees devoted to air program work in Ohio.

Page CAA 14, the second to last line of the paragraph beginning "Of recent interest..." should read, "At that point, the PSD delegation **will** no longer be necessary since Ohio will have an approved PSD SIP program."

Page CAA 26, the second sentence at 2.b(1), should read, "OEPA's low level of inspections and its lack of a comprehensive inspection system to identify unpermitted PSD sources of the permitting system...."

Page CAA 27, the fourth sentence in V.A. 2. b.(1) should read, "The fact that U.S. EPA independently identified various Ohio PSD sources **which have been** in violation of the federal permitting and emission requirements in the past five years suggests that OEPA could have been more diligent in discovering PSD violators."

Page CAA 40, at the top, the last sentence of the first paragraph under V. B.1.a.(6), "Moreover, it appears that Ohio has not enacted laws and OEPA has not promulgated rules to create the Acid Rain Program." It is more accurate to say, "Moreover, it appears that OEPA has not completed adoption of additional rules necessary to implement the Phase II acid rain program." OEPA needs to adopt and submit Phase II NO_x rules to U.S. EPA for approval.

Page CAA 44, the first line of the first full paragraph should read, "Under the submitted Ohio PSD SIP program, no **State** provision exists that is equivalent to the federal regulatory requirement that provides for an extension of the 30-day comment period."

Page CAA 56, Figure 1, in the caption to Figure 1, replace the acronym “FINDS” with the acronym “IDEA.”

Page RCRA 10. In the chart entitled, "Final RCRA 3008(a) Compliance Orders," the number of Orders for 1995 should be 29, not 31, and the number of Orders for 1996 should be 21, not 22. The title of this chart should be changed to, "Director's Findings and Final Orders."

Page RCRA 19 under WTI, at line 10, the report indicates that a Director's Final Findings and Order was also issued on September 27, 2000, addressing past permit violations and requiring a penalty of \$135,000. Please note that WTI paid \$17,500 into the hazardous waste cleanup fund, and \$80,000 to cover the costs of a second on-site inspector, and was given \$37,500 credit for the implementation of two supplemental environmental projects.

Page RCRA 20 under Envirosafe at line 7, Notices of Violation were also sent to Envirosafe on the following dates: April 1, 1998, August 27, 1999, October 20, 1999, December 8, 1999, January 8, 2000, April 6, 2000, and June 13, 2000.

Page RCRA 20 under Envirosafe, the penalty amount required by the April 20, 2000, Consent Order is \$220,000.

Page RCRA 20 under Brush Wellman, OEPA also sent Brush Wellman a Notice of Violation on September 22, 2000.

Page OLS 35, please note that according to OEPA, the OEPA Office of Legal Service attorneys do not defend permit appeals and final agency actions. As mentioned earlier in the draft report, the Ohio Attorney General's Office handles these matters.

II. UPDATES

We note the following updates to the August 30, 2001, Draft Report on U.S. EPA Review of Ohio Environmental Programs:

Page CAA 11, second paragraph under IV, the draft report states, “It is also important to note that Ohio has submitted a PSD SIP program for approval by U.S. EPA, and U.S. EPA has recently published in the Federal Register its draft conditional approval of the program for notice and comment....” The draft conditional approval is also mentioned in the first full paragraph at page CAA 14 and in footnote 13 of Page CAA 27. Please note that the conditional approval of the Ohio PSD SIP was published as a final action in the Federal Register on October 10, 2001. (See 66 *Federal Register* 51570.)

Page CAA 46, in the second paragraph under V. B.1.d., the draft report states, “Moreover, Ohio is currently attaining the NAAQS with the exception of a few small areas which are not in attainment with the sulfur dioxide and particulate matter of 10 microns or less standards.” Please note that after the draft report was released, the Cincinnati Metropolitan area's redesignation status was vacated in *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001).